

SENATE COMMITTEE AMENDMENTS

Amendments proposed by Senate Committee on Education to Engrossed House Bill No. 590  
by Representative Barrow

AMENDMENT NO. 1

On page 1, line 2, between "R.S. 17:238" and the comma "," insert "and to enact Part III of Chapter 7 of Title 17 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 17:1915"

AMENDMENT NO. 2

On page 1, line 7, between "circumstances;" and "to" insert "to provide for the authorization of the state to join and ratify the Interstate Compact on Educational Opportunity for Military Children;"

AMENDMENT NO. 3

On page 1, line 10, between "reenacted" and "to" insert "and Part III of Chapter 17 of Title 17 of the Louisiana Revised Statutes of 1950, comprised of R.S. 17:1915 is hereby enacted"

AMENDMENT NO. 4

On page 2, between lines 20 and 21, insert the following:

"\* \* \*

**PART III. INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY  
FOR MILITARY CHILDREN**

§1915. Ratification; text of compact

The action of the governor of this state in entering into a compact on behalf of the State of Louisiana with the states joining therein for cooperative efforts for ensuring educational opportunity and access for children of military families is hereby authorized and ratified, which compact is substantially as follows:

**INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR  
MILITARY CHILDREN**

**ARTICLE I  
PURPOSE**

It is the purpose of this compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

A. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district(s) or variations in entrance/age requirements.

B. Facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content or assessment.

C. Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities.

D. Facilitating the on-time graduation of children of military families.

1 E. Providing for the promulgation and enforcement of administrative rules  
 2 implementing the provisions of this compact.

3 F. Providing for the uniform collection and sharing of information between  
 4 and among member states, schools and military families under this compact.

5 G. Promoting coordination between this compact and other compacts  
 6 affecting military children.

7 H. Promoting flexibility and cooperation between the educational system,  
 8 parents and the student in order to achieve educational success for the student.

## 9 ARTICLE II 10 DEFINITIONS

11 As used in this compact, unless the context clearly requires a different  
 12 construction:

13 A. "Active duty" means full-time duty status in the active uniformed service  
 14 of the United States, including members of the National Guard and Reserve on active  
 15 duty orders pursuant to 10 U.S.C. Section 1209 and 1211.

16 B. "Children of military families" means a school-aged child, enrolled in  
 17 Kindergarten through Twelfth (12th) grade, in the household of an active duty  
 18 member.

19 C. "Compact commissioner" means the voting representative of each  
 20 compacting state appointed pursuant to Article VIII of this compact.

21 D. "Deployment" means the period one (1) month prior to the service  
 22 members' departure from their home station on military orders though six (6) months  
 23 after return to their home station.

24 E. "Educational records" means those official records, files, and data directly  
 25 related to a student and maintained by the school or local education agency,  
 26 including but not limited to records encompassing all the material kept in the  
 27 student's cumulative folder such as general identifying data, records of attendance  
 28 and of academic work completed, records of achievement and results of evaluative  
 29 tests, health data, disciplinary status, test protocols, and individualized education  
 30 programs.

31 F. "Extracurricular activities" means a voluntary activity sponsored by the  
 32 school or local education agency or an organization sanctioned by the local education  
 33 agency. Extracurricular activities include, but are not limited to, preparation for and  
 34 involvement in public performances, contests, athletic competitions, demonstrations,  
 35 displays, and club activities.

36 G. "Interstate Commission on Educational Opportunity for Military  
 37 Children" means the commission that is created under Article IX of this compact,  
 38 which is generally referred to as Interstate Commission.

39 H. "Local education agency" means a public authority legally constituted by  
 40 the state as an administrative agency to provide control of and direction for  
 41 Kindergarten through Twelfth (12th) grade public educational institutions.

42 I. "Member state" means a state that has enacted this compact.

43 J. "Military installation" means a base, camp, post, station, yard, center,  
 44 homework facility for any ship, or other activity under the jurisdiction of the  
 45 Department of Defense, including any leased facility, which is located within any of  
 46 the several States, the District of Columbia, the Commonwealth of Puerto Rico, the  
 47 U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any  
 48 other U.S. Territory. Such term does not include any facility used primarily for civil  
 49 works, rivers and harbors projects, or flood control projects.

50 K. "Non-member state" means a state that has not enacted this compact.

51 L. "Receiving state" means the state to which a child of a military family is  
 52 sent, brought, or caused to be sent or brought.

53 M. "Rule" means a written statement by the Interstate Commission  
 54 promulgated pursuant to Article XII of this compact that is of general applicability,  
 55 implements, interprets or prescribes a policy or provision of the Compact, or an  
 56 organizational, procedural, or practice requirement of the Interstate Commission, and  
 57 has the force and effect of statutory law in a member state, and includes the  
 58 amendment, repeal, or suspension of an existing rule.

N. “Sending state” means the state from which a child of a military family is sent, brought, or caused to be sent or brought.

O. “State” means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other U.S. Territory.

P. “Student” means the child of a military family for whom the local education agency receives public funding and who is formally enrolled in Kindergarten through Twelfth (12th) grade.

Q. “Transition” means (1) the formal and physical process of transferring from school to school or (2) the period of time in which a student moves from one school in the sending state to another school in the receiving state.

R. “Uniformed service” means the Army, Navy, Air Force, Marine Corps, Coast Guard as well as the Commissioned Corps of the National Oceanic and Atmospheric Administration, and Public Health Services.

S. “Veteran” means a person who served in the uniformed services and who was discharged or released there from under conditions other than dishonorable.

### **ARTICLE III** **APPLICABILITY**

A. Except as otherwise provided in Section B, this compact shall apply to the children of:

1. Active duty members of the uniformed services as defined in this compact, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Section 1209 and 1211.

2. Members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one (1) year after medical discharge or retirement.

3. Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one (1) year after death.

B. The provisions of this interstate compact shall only apply to local education agencies as defined in this compact.

C. The provisions of this compact shall not apply to the children of:

1. Inactive members of the national guard and military reserves.

2. Members of the uniformed services now retired, except as provided in Section A.

3. Veterans of the uniformed services, except as provided in Section A.

4. Other U.S. Department of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

### **ARTICLE IV** **EDUCATIONAL RECORDS & ENROLLMENT**

A. Unofficial or “hand-carried” education records. In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial education records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.

B. Official education records/transcripts. Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student’s official education record from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official education records to the school in the receiving state within ten (10) days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

C. Immunizations. Compacting states shall give thirty (30) days from the date of enrollment or within such time as is reasonably determined under the rules

1 promulgated by the Interstate Commission, for students to obtain any  
 2 immunization(s) required by the receiving state. For a series of immunizations, initial  
 3 vaccinations must be obtained within thirty (30) days or within such time as is  
 4 reasonably determined under the rules promulgated by the Interstate Commission.

5 D. Kindergarten and First grade entrance age. Students shall be allowed to  
 6 continue their enrollment at the grade level in the receiving state commensurate with  
 7 their grade level (including Kindergarten) from a local education agency in the  
 8 sending state at the time of transition, regardless of age. A student that has  
 9 satisfactorily completed the prerequisite grade level in the local education agency in  
 10 the sending state shall be eligible for enrollment in the next highest grade level in the  
 11 receiving state, regardless of age. A student transferring after the start of the school  
 12 year in the receiving state shall enter the school in the receiving state on their  
 13 validated level from an accredited school in the sending state.

## 14 ARTICLE V

### 15 PLACEMENT & ATTENDANCE

16 A. Course placement. When the student transfers before or during the school  
 17 year, the receiving state school shall initially honor placement of the student in  
 18 educational courses based on the student's enrollment in the sending state school  
 19 and/or educational assessments conducted at the school in the sending state if the  
 20 courses are offered. Course placement includes but is not limited to Honors,  
 21 International Baccalaureate, Advanced Placement, vocational, technical and career  
 22 pathways courses. Continuing the student's academic program from the previous  
 23 school and promoting placement in academically and career challenging courses  
 24 should be paramount when considering placement. This does not preclude the school  
 25 in the receiving state from performing subsequent evaluations to ensure appropriate  
 26 placement and continued enrollment of the student in the course(s).

27 B. Educational program placement. The receiving state school shall initially  
 28 honor placement of the student in educational programs based on current educational  
 29 assessments conducted at the school in the sending state or participation/placement  
 30 in like programs in the sending state. Such programs include, but are not limited to  
 31 gifted and talented programs and English as a second language (ESL). This does not  
 32 preclude the school in the receiving state from performing subsequent evaluations  
 33 to ensure appropriate placement of the student.

34 C. Special education services. In compliance with the federal requirements  
 35 of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C.A. Section 1400  
 36 et seq, the receiving state shall initially provide comparable services to a student with  
 37 disabilities based on his/her current Individualized Education Program (IEP). In  
 38 compliance with the requirements of Section 504 of the Rehabilitation Act, 29  
 39 U.S.C.A. Section 794, and with Title II of the Americans with Disabilities Act, 42  
 40 U.S.C.A. Sections 12131-12165, the receiving state shall make reasonable  
 41 accommodations and modifications to address the needs of incoming students with  
 42 disabilities, subject to an existing 504 or Title II Plan, to provide the student with  
 43 equal access to education. This does not preclude the school in the receiving state  
 44 from performing subsequent evaluations to ensure appropriate placement of the  
 45 student.

46 D. Placement flexibility. Local education agency administrative officials  
 47 shall have flexibility in waiving course/program prerequisites, or other preconditions  
 48 for placement in courses/programs offered under the jurisdiction of the local  
 49 education agency.

50 E. Absence as related to deployment activities. A student whose parent or  
 51 legal guardian is an active duty member of the uniformed services, as defined by the  
 52 compact, and has been called to duty for, is on leave from, or immediately returned  
 53 from deployment to a combat zone or combat support posting, shall be granted  
 54 additional excused absences at the discretion of the local education agency  
 55 superintendent to visit with his or her parent or legal guardian relative to such leave  
 56 or deployment of the parent or guardian.

## 57 ARTICLE VI

### 58 ELIGIBILITY

1           A. Eligibility for enrollment.

2           1. Special power of attorney, relative to the guardianship of a child of a  
3 military family and executed under applicable law shall be sufficient for the purposes  
4 of enrollment and all other actions requiring parental participation and consent.

5           2. A local education agency shall be prohibited from charging local tuition  
6 to a transitioning military child placed in the care of a non-custodial parent or other  
7 person standing in loco parentis who lives in a jurisdiction other than that of the  
8 custodial parent.

9           3. A transitioning military child, placed in the care of a non-custodial parent  
10 or other person standing in loco parentis who lives in a jurisdiction other than that  
11 of the custodial parent, may continue to attend the school in which he/she was  
12 enrolled while residing with the custodial parent.

13           B. Eligibility for extracurricular participation - State and local education  
14 agencies shall facilitate the opportunity for transitioning military children's inclusion  
15 in extracurricular activities, regardless of application deadlines, to the extent they are  
16 otherwise qualified.

17                               **ARTICLE VII**  
18                               **GRADUATION**

19           In order to facilitate the on-time graduation of children of military families,  
20 states and local education agencies shall incorporate the following procedures:

21           A. Waiver requirements. Local education agency administrative officials  
22 shall waive specific courses required for graduation if similar course work has been  
23 satisfactorily completed in another local education agency or shall provide  
24 reasonable justification for denial. Should a waiver not be granted to a student who  
25 would qualify to graduate from the sending school, the local education agency shall  
26 provide an alternative means of acquiring required coursework so that graduation  
27 may occur on time.

28           B. Exit exams. States shall accept exit or end-of-course exams required for  
29 graduation from the sending state, national norm referenced achievement tests, or  
30 alternative testing, in lieu of testing requirements for graduation in the receiving  
31 state. In the event the above alternatives cannot be accommodated by the receiving  
32 state for a student transferring in his or her Senior year, then the provisions of Article  
33 VII, Section C shall apply.

34           C. Transfers during senior year. Should a military student transferring at the  
35 beginning or during his or her senior year be ineligible to graduate from the receiving  
36 local education agency after all alternatives have been considered, the sending and  
37 receiving local education agencies shall ensure the receipt of a diploma from the  
38 sending local education agency, if the student meets the graduation requirements of  
39 the sending local education agency. In the event that one of the states in question is  
40 not a member of this compact, the member state shall use best efforts to facilitate the  
41 on-time graduation of the student in accordance with Sections A and B of this  
42 Article.

43                               **ARTICLE VIII**  
44                               **STATE COORDINATION**

45           A. Each member state shall, through the creation of a State Council or use of  
46 an existing body or board, provide for the coordination among its agencies of  
47 government, local education agencies, and military installations concerning the  
48 state's participation in, and compliance with, this compact and Interstate  
49 Commission activities. While each member state may determine the membership of  
50 its own State Council, its membership must include at least: the state superintendent  
51 of education, superintendent of a school district with a high concentration of military  
52 children, representative from a military installation, one representative each from the  
53 legislative and executive branches of government, and other offices and stakeholder  
54 groups the State Council deems appropriate. A member state that does not have a  
55 school district deemed to contain a high concentration of military children may

1 appoint a superintendent from another school district to represent local education  
 2 agencies on the State Council.

3 B. The State Council of each member state shall appoint or designate a  
 4 military family education liaison to assist military families and the state in  
 5 facilitating the implementation of this compact.

6 C. The compact commissioner responsible for the administration and  
 7 management of the state's participation in the compact shall be appointed by the  
 8 Governor or as otherwise determined by each member state.

9 D. The compact commissioner and the military family education liaison  
 10 designated herein shall be ex-officio members of the State Council, unless either is  
 11 already a full voting member of the State Council.

12 **ARTICLE IX**  
 13 **INTERSTATE COMMISSION ON EDUCATIONAL**  
 14 **OPPORTUNITY FOR MILITARY CHILDREN**

15 The member states hereby create the “Interstate Commission on Educational  
 16 Opportunity for Military Children.” The activities of the Interstate Commission are  
 17 the formation of public policy and are a discretionary state function. The Interstate  
 18 Commission shall:

19 A. Be a body corporate and joint agency of the member states and shall have  
 20 all the responsibilities, powers and duties set forth herein, and such additional powers  
 21 as may be conferred upon it by a subsequent concurrent action of the respective  
 22 legislatures of the member states in accordance with the terms of this compact.

23 B. Consist of one Interstate Commission voting representative from each  
 24 member state who shall be that state’s compact commissioner.

25 1. Each member state represented at a meeting of the Interstate Commission  
 26 is entitled to one vote.

27 2. A majority of the total member states shall constitute a quorum for the  
 28 transaction of business, unless a larger quorum is required by the bylaws of the  
 29 Interstate Commission.

30 3. A representative shall not delegate a vote to another member state. In the  
 31 event the compact commissioner is unable to attend a meeting of the Interstate  
 32 Commission, the Governor or State Council may delegate voting authority to another  
 33 person from their state for a specified meeting.

34 4. The bylaws may provide for meetings of the Interstate Commission to be  
 35 conducted by telecommunication or electronic communication.

36 C. Consist of ex-officio, non-voting representatives who are members of  
 37 interested organizations. Such ex-officio members, as defined in the bylaws, may  
 38 include but not be limited to, members of the representative organizations of military  
 39 family advocates, local education agency officials, parent and teacher groups, the  
 40 United States Department of Defense, the Education Commission of the States, the  
 41 Interstate Agreement on the Qualification of Educational Personnel and other  
 42 interstate compacts affecting the education of children of military members.

43 D. Meet at least once each calendar year. The chairperson may call additional  
 44 meetings and, upon the request of a simple majority of the member states, shall call  
 45 additional meetings.

46 E. Establish an executive committee, whose members shall include the  
 47 officers of the Interstate Commission and such other members of the Interstate  
 48 Commission as determined by the bylaws. Members of the executive committee shall  
 49 serve a one year term. Members of the executive committee shall be entitled to one  
 50 vote each. The executive committee shall have the power to act on behalf of the  
 51 Interstate Commission, with the exception of rulemaking, during periods when the  
 52 Interstate Commission is not in session. The executive committee shall oversee the  
 53 day-to-day activities of the administration of the compact including enforcement and  
 54 compliance with the provisions of the compact, its bylaws and rules, and other such  
 55 duties as deemed necessary. The United States Department of Defense shall serve  
 56 as an ex-officio, nonvoting member of the executive committee.

57 F. Establish bylaws and rules that provide for conditions and procedures  
 58 under which the Interstate Commission shall make its information and official  
 59 records available to the public for inspection or copying. The Interstate Commission

1 may exempt from disclosure information or official records to the extent they would  
 2 adversely affect personal privacy rights or proprietary interests.

3 G. Give public notice of all meetings and all meetings shall be open to the  
 4 public, except as set forth in the rules or as otherwise provided in the compact. The  
 5 Interstate Commission and its committees may close a meeting, or portion thereof,  
 6 where it determines by two-thirds vote that an open meeting would be likely to:

7 1. Relate solely to the Interstate Commission's internal personnel practices  
 8 and procedures.

9 2. Disclose matters specifically exempted from disclosure by federal and state  
 10 statute.

11 3. Disclose trade secrets or commercial or financial information which is  
 12 privileged or confidential.

13 4. Involve accusing a person of a crime, or formally censuring a person;

14 5. Disclose information of a personal nature where disclosure would  
 15 constitute a clearly unwarranted invasion of personal privacy.

16 6. Disclose investigative records compiled for law enforcement purposes.

17 7. Specifically relate to the Interstate Commission's participation in a civil  
 18 action or other legal proceeding.

19 H. Shall cause its legal counsel or designee to certify that a meeting may be  
 20 closed and shall reference each relevant exemptible provision for any meeting, or  
 21 portion of a meeting, which is closed pursuant to this provision. The Interstate  
 22 Commission shall keep minutes which shall fully and clearly describe all matters  
 23 discussed in a meeting and shall provide a full and accurate summary of actions  
 24 taken, and the reasons therefore, including a description of the views expressed and  
 25 the record of a roll call vote. All documents considered in connection with an action  
 26 shall be identified in such minutes. All minutes and documents of a closed meeting  
 27 shall remain under seal, subject to release by a majority vote of the Interstate  
 28 Commission.

29 I. Shall collect standardized data concerning the educational transition of the  
 30 children of military families under this compact as directed through its rules which  
 31 shall specify the data to be collected, the means of collection and data exchange and  
 32 reporting requirements. Such methods of data collection, exchange and reporting  
 33 shall, in so far as is reasonably possible, conform to current technology and  
 34 coordinate its information functions with the appropriate custodian of records as  
 35 identified in the bylaws and rules.

36 J. Shall create a process that permits military officials, education officials and  
 37 parents to inform the Interstate Commission if and when there are alleged violations  
 38 of the compact or its rules or when issues subject to the jurisdiction of the compact  
 39 or its rules are not addressed by the state or local education agency. This section shall  
 40 not be construed to create a private right of action against the Interstate Commission  
 41 or any member state.

## 42 **ARTICLE X** 43 **POWERS AND DUTIES OF THE INTERSTATE COMMISSION**

44 The Interstate Commission shall have the following powers:

45 A. To provide for dispute resolution among member states.

46 B. To promulgate rules and take all necessary actions to effect the goals,  
 47 purposes and obligations as enumerated in this compact. The rules shall have the  
 48 force and effect of statutory law and shall be binding in the compact states to the  
 49 extent and in the manner provided in this compact.

50 C. To issue, upon request of a member state, advisory opinions concerning  
 51 the meaning or interpretation of the interstate compact, its bylaws, rules and actions.

52 D. To enforce compliance with the compact provisions, the rules promulgated  
 53 by the Interstate Commission, and the bylaws, using all necessary and proper means,  
 54 including but not limited to the use of judicial process.

55 E. To establish and maintain offices which shall be located within one or  
 56 more of the member states.

57 F. To purchase and maintain insurance and bonds.

58 G. To borrow, accept, hire or contract for services of personnel.

H. To establish and appoint committees including, but not limited to, an executive committee as required by Article IX, Section E, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.

I. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the Interstate Commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel.

J. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it.

K. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed.

L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed.

M. To establish a budget and make expenditures.

N. To adopt a seal and bylaws governing the management and operation of the Interstate Commission.

O. To report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

P. To coordinate education, training and public awareness regarding the compact, its implementation and operation for officials and parents involved in such activity.

Q. To establish uniform standards for the reporting, collecting and exchanging of data.

R. To maintain corporate books and records in accordance with the bylaws.

S. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

T. To provide for the uniform collection and sharing of information between and among member states, schools and military families under this compact.

## ARTICLE XI

## ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall, by a majority of the members present and voting, within 12 months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

1. Establishing the fiscal year of the Interstate Commission.

2. Establishing an executive committee, and such other committees as may be necessary.

3. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the Interstate Commission.

4. Providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each such meeting.

5. Establishing the titles and responsibilities of the officers and staff of the Interstate Commission.

6. Providing a mechanism for concluding the operations of the Interstate Commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations.

7. Providing "start up" rules for initial administration of the compact.

B. The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice-chairperson, and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be



1 reimbursed for ordinary and necessary costs and expenses incurred by them in the  
 2 performance of their responsibilities as officers of the Interstate Commission.

3 C. Executive Committee, Officers and Personnel.

4 1. The executive committee shall have such authority and duties as may be  
 5 set forth in the bylaws, including but not limited to:

6 a. Managing the affairs of the Interstate Commission in a manner consistent  
 7 with the bylaws and purposes of the Interstate Commission.

8 b. Overseeing an organizational structure within, and appropriate procedures  
 9 for the Interstate Commission to provide for the creation of rules, operating  
 10 procedures, and administrative and technical support functions.

11 c. Planning, implementing, and coordinating communications and activities  
 12 with other state, federal and local government organizations in order to advance the  
 13 goals of the Interstate Commission.

14 2. The executive committee may, subject to the approval of the Interstate  
 15 Commission, appoint or retain an executive director for such period, upon such terms  
 16 and conditions and for such compensation, as the Interstate Commission may deem  
 17 appropriate. The executive director shall serve as secretary to the Interstate  
 18 Commission, but shall not be a Member of the Interstate Commission. The executive  
 19 director shall hire and supervise such other persons as may be authorized by the  
 20 Interstate Commission.

21 D. The Interstate Commission's executive director and its employees shall  
 22 be immune from suit and liability, either personally or in their official capacity, for  
 23 a claim for damage to or loss of property or personal injury or other civil liability  
 24 caused or arising out of or relating to an actual or alleged act, error, or omission that  
 25 occurred, or that such person had a reasonable basis for believing occurred, within  
 26 the scope of Interstate Commission employment, duties, or responsibilities;  
 27 provided, that such person shall not be protected from suit or liability for damage,  
 28 loss, injury, or liability caused by the intentional or willful and wanton misconduct  
 29 of such person.

30 1. The liability of the Interstate Commission's executive director and  
 31 employees or Interstate Commission representatives, acting within the scope of such  
 32 person's employment or duties for acts, errors, or omissions occurring within such  
 33 person's state may not exceed the limits of liability set forth under the Constitution  
 34 and laws of that state for state officials, employees, and agents. The Interstate  
 35 Commission is considered to be an instrumentality of the states for the purposes of  
 36 any such action. Nothing in this subsection shall be construed to protect such person  
 37 from suit or liability for damage, loss, injury, or liability caused by the intentional  
 38 or willful and wanton misconduct of such person.

39 2. The Interstate Commission shall defend the executive director and its  
 40 employees and, subject to the approval of the Attorney General or other appropriate  
 41 legal counsel of the member state represented by an Interstate Commission  
 42 representative, shall defend such Interstate Commission representative in any civil  
 43 action seeking to impose liability arising out of an actual or alleged act, error or  
 44 omission that occurred within the scope of Interstate Commission employment,  
 45 duties or responsibilities, or that the defendant had a reasonable basis for believing  
 46 occurred within the scope of Interstate Commission employment, duties, or  
 47 responsibilities, provided that the actual or alleged act, error, or omission did not  
 48 result from intentional or willful and wanton misconduct on the part of such person.

49 3. To the extent not covered by the state involved, member state, or the  
 50 Interstate Commission, the representatives or employees of the Interstate  
 51 Commission shall be held harmless in the amount of a settlement or judgment,  
 52 including attorney's fees and costs, obtained against such persons arising out of an  
 53 actual or alleged act, error, or omission that occurred within the scope of Interstate  
 54 Commission employment, duties, or responsibilities, or that such persons had a  
 55 reasonable basis for believing occurred within the scope of Interstate Commission  
 56 employment, duties, or responsibilities, provided that the actual or alleged act, error,  
 57 or omission did not result from intentional or willful and wanton misconduct on the  
 58 part of such persons.

59 **ARTICLE XII**  
 60 **RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION**

1           A. Rulemaking Authority. The Interstate Commission shall promulgate  
 2 reasonable rules in order to effectively and efficiently achieve the purposes of this  
 3 Compact. Notwithstanding the foregoing, in the event the Interstate Commission  
 4 exercises its rulemaking authority in a manner that is beyond the scope of the  
 5 purposes of this Act, or the powers granted hereunder, then such an action by the  
 6 Interstate Commission shall be invalid and have no force or effect.

7           B. Rulemaking Procedure. Rules shall be made pursuant to a rulemaking  
 8 process that substantially conforms to the “Model State Administrative Procedure  
 9 Act,” of 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000) as amended, as  
 10 may be appropriate to the operations of the Interstate Commission.

11           C. Not later than thirty (30) days after a rule is promulgated, any person may  
 12 file a petition for judicial review of the rule; provided, that the filing of such a  
 13 petition shall not stay or otherwise prevent the rule from becoming effective unless  
 14 the court finds that the petitioner has a substantial likelihood of success. The court  
 15 shall give deference to the actions of the Interstate Commission consistent with  
 16 applicable law and shall not find the rule to be unlawful if the rule represents a  
 17 reasonable exercise of the Interstate Commission's authority.

18           D. If a majority of the legislatures of the compacting states rejects a Rule by  
 19 enactment of a statute or resolution in the same manner used to adopt the compact,  
 20 then such rule shall have no further force and effect in any compacting state.

## 21           **ARTICLE XIII** 22           **OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION**

### 23           A. Oversight.

24           1. The executive, legislative and judicial branches of state government in  
 25 each member state shall enforce this compact and shall take all actions necessary and  
 26 appropriate to effectuate the compact's purposes and intent. The provisions of this  
 27 compact and the rules promulgated hereunder shall have standing as statutory law.

28           2. All courts shall take judicial notice of the compact and the rules in any  
 29 judicial or administrative proceeding in a member state pertaining to the subject  
 30 matter of this compact which may affect the powers, responsibilities or actions of the  
 31 Interstate Commission.

32           3. The Interstate Commission shall be entitled to receive all service of  
 33 process in any such proceeding, and shall have standing to intervene in the  
 34 proceeding for all purposes. Failure to provide service of process to the Interstate  
 35 Commission shall render a judgment or order void as to the Interstate Commission,  
 36 this compact or promulgated rules.

37           B. Default, Technical Assistance, Suspension and Termination. If the  
 38 Interstate Commission determines that a member state has defaulted in the  
 39 performance of its obligations or responsibilities under this compact, or the bylaws  
 40 or promulgated rules, the Interstate Commission shall:

41           1. Provide written notice to the defaulting state and other member states, of  
 42 the nature of the default, the means of curing the default and any action taken by the  
 43 Interstate Commission. The Interstate Commission shall specify the conditions by  
 44 which the defaulting state must cure its default.

45           2. Provide remedial training and specific technical assistance regarding the  
 46 default.

47           3. If the defaulting state fails to cure the default, the defaulting state shall be  
 48 terminated from the compact upon an affirmative vote of a majority of the member  
 49 states and all rights, privileges and benefits conferred by this compact shall be  
 50 terminated from the effective date of termination. A cure of the default does not  
 51 relieve the offending state of obligations or liabilities incurred during the period of  
 52 the default.

53           4. Suspension or termination of membership in the compact shall be imposed  
 54 only after all other means of securing compliance have been exhausted. Notice of  
 55 intent to suspend or terminate shall be given by the Interstate Commission to the  
 56 Governor, the majority and minority leaders of the defaulting state's legislature, and  
 57 each of the member states.

1           5. The state which has been suspended or terminated is responsible for all  
 2 assessments, obligations and liabilities incurred through the effective date of  
 3 suspension or termination including obligations, the performance of which extends  
 4 beyond the effective date of suspension or termination.

5           6. The Interstate Commission shall not bear any costs relating to any state  
 6 that has been found to be in default or which has been suspended or terminated from  
 7 the compact, unless otherwise mutually agreed upon in writing between the Interstate  
 8 Commission and the defaulting state.

9           7. The defaulting state may appeal the action of the Interstate Commission  
 10 by petitioning the U.S. District Court for the District of Columbia or the federal  
 11 district where the Interstate Commission has its principal offices. The prevailing  
 12 party shall be awarded all costs of such litigation including reasonable attorney's  
 13 fees.

14           C. Dispute Resolution.

15           1. The Interstate Commission shall attempt, upon the request of a member  
 16 state, to resolve disputes which are subject to the compact and which may arise  
 17 among member states and between member and non-member states.

18           2. The Interstate Commission shall promulgate a rule providing for both  
 19 mediation and binding dispute resolution for disputes as appropriate.

20           D. Enforcement.

21           1. The Interstate Commission, in the reasonable exercise of its discretion,  
 22 shall enforce the provisions and rules of this compact.

23           2. The Interstate Commission, may by majority vote of the members, initiate  
 24 legal action in the United States District Court for the District of Columbia or, at the  
 25 discretion of the Interstate Commission, in the federal district where the Interstate  
 26 Commission has its principal offices, to enforce compliance with the provisions of  
 27 the compact, its promulgated rules and bylaws, against a member state in default.  
 28 The relief sought may include both injunctive relief and damages. In the event  
 29 judicial enforcement is necessary the prevailing party shall be awarded all costs of  
 30 such litigation including reasonable attorney's fees.

31           3. The remedies herein shall not be the exclusive remedies of the Interstate  
 32 Commission. The Interstate Commission may avail itself of any other remedies  
 33 available under state law or the regulation of a profession.

34                           **ARTICLE XIV**

35                           **FINANCING OF THE INTERSTATE COMMISSION**

36           A. The Interstate Commission shall pay, or provide for the payment of the  
 37 reasonable expenses of its establishment, organization and ongoing activities.

38           B. The Interstate Commission may levy on and collect an annual assessment  
 39 from each member state to cover the cost of the operations and activities of the  
 40 Interstate Commission and its staff which must be in a total amount sufficient to  
 41 cover the Interstate Commission's annual budget as approved each year. The  
 42 aggregate annual assessment amount shall be allocated based upon a formula to be  
 43 determined by the Interstate Commission, which shall promulgate a rule binding  
 44 upon all member states.

45           C. The Interstate Commission shall not incur obligations of any kind prior to  
 46 securing the funds adequate to meet the same; nor shall the Interstate Commission  
 47 pledge the credit of any of the member states, except by and with the authority of the  
 48 member state.

49           D. The Interstate Commission shall keep accurate accounts of all receipts and  
 50 disbursements. The receipts and disbursements of the Interstate Commission shall  
 51 be subject to the audit and accounting procedures established under its bylaws.  
 52 However, all receipts and disbursements of funds handled by the Interstate  
 53 Commission shall be audited yearly by a certified or licensed public accountant and  
 54 the report of the audit shall be included in and become part of the annual report of  
 55 the Interstate Commission.

56                           **ARTICLE XV**

57                           **MEMBER STATES, EFFECTIVE DATE AND AMENDMENT**

1           A. Any state is eligible to become a member state.

2           B. The compact shall become effective and binding upon legislative  
 3 enactment of the compact into law by no less than ten (10) of the states. The  
 4 effective date shall be no earlier than December 1, 2007. Thereafter it shall become  
 5 effective and binding as to any other member state upon enactment of the compact  
 6 into law by that state. The governors of non-member states or their designees shall  
 7 be invited to participate in the activities of the Interstate Commission on a non voting  
 8 basis prior to adoption of the compact by all states.

9           C. The Interstate Commission may propose amendments to the compact or  
 10 enactment by the member states. No amendment shall become effective and binding  
 11 upon the Interstate Commission and the member states unless and until it is enacted  
 12 into law by unanimous consent of the member states.

## 13           **ARTICLE XVI** 14           **WITHDRAWAL AND DISSOLUTION**

15           A. Withdrawal.

16           1. Once effective, the compact shall continue in force and remain binding  
 17 upon each and every member state; provided that a member state may withdraw from  
 18 the compact by specifically repealing the statute, which enacted the compact into  
 19 law.

20           2. Withdrawal from this compact shall be by the enactment of a statute  
 21 repealing the same, but shall not take effect until one (1) year after the effective date  
 22 of such statute and until written notice of the withdrawal has been given by the  
 23 withdrawing state to the Governor of each other member jurisdiction.

24           3. The withdrawing state shall immediately notify the chairperson of the  
 25 Interstate Commission in writing upon the introduction of legislation repealing this  
 26 compact in the withdrawing state. The Interstate Commission shall notify the other  
 27 member states of the withdrawing state's intent to withdraw within sixty (60) days  
 28 of its receipt thereof.

29           4. The withdrawing state is responsible for all assessments, obligations and  
 30 liabilities incurred through the effective date of withdrawal, including obligations,  
 31 the performance of which extend beyond the effective date of withdrawal.

32           5. Reinstatement following withdrawal of a member state shall occur upon  
 33 the withdrawing state reenacting the compact or upon such later date as determined  
 34 by the Interstate Commission.

35           B. Dissolution of Compact

36           1. This compact shall dissolve effective upon the date of the withdrawal or  
 37 default of the member state which reduces the membership in the compact to one (1)  
 38 member state.

39           2. Upon the dissolution of this compact, the compact becomes null and void  
 40 and shall be of no further force or effect, and the business and affairs of the Interstate  
 41 Commission shall be concluded and surplus funds shall be distributed in accordance  
 42 with the bylaws.

## 43           **ARTICLE XVII** 44           **SEVERABILITY AND CONSTRUCTION**

45           A. The provisions of this compact shall be severable, and if any phrase,  
 46 clause, sentence or provision is deemed unenforceable, the remaining provisions of  
 47 the compact shall be enforceable.

48           B. The provisions of this compact shall be liberally construed to effectuate  
 49 its purposes.

50           C. Nothing in this compact shall be construed to prohibit the applicability of  
 51 other interstate compacts to which the states are members.

## 52           **ARTICLE XVIII** 53           **BINDING EFFECT OF COMPACT AND OTHER LAWS**

54           A. Other Laws.

1           1. Nothing herein prevents the enforcement of any other law of a member  
2 state that is not inconsistent with this compact.

3           2. All member states' laws conflicting with this compact are superseded to the  
4 extent of the conflict.

5           B. Binding Effect of the Compact.

6           1. All lawful actions of the Interstate Commission, including all rules and  
7 bylaws promulgated by the Interstate Commission, are binding upon the member  
8 states.

9           2. All agreements between the Interstate Commission and the member states  
10 are binding in accordance with their terms.

11           3. In the event any provision of this compact exceeds the constitutional limits  
12 imposed on the legislature of any member state, such provision shall be ineffective  
13 to the extent of the conflict with the constitutional provision in question in that  
14 member state."